

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Petition for Revocation on)	
Sprint/Nextel's Designation as an)	
Eligible Telecommunications Carrier)	
in the Commonwealth of Virginia)	

To: Wireline Competition Bureau

**Rural Carriers Comments on Petition for Revocation of Sprint/Nextel's ETC
Designation in Virginia**

The Rural Carriers,¹ by their attorneys, hereby submit comments in response to the Federal Communications Commission's ("FCC" or "Commission") *Public Notice*² seeking comment on a petition filed by TDS Telecommunications Corp., FairPoint Communications, Inc., and Burke's Garden Telephone Company (collectively, "Rural Petitioners") seeking revocation of Sprint Nextel Corporation's ("Sprint/Nextel") designation as an eligible telecommunications carrier ("ETC") in the Commonwealth of Virginia. The Rural Petitioners allege that Sprint/Nextel has not built out and expanded

¹ The Rural Carriers include: Advantage Cellular System, Inc., CT Cube, L.P. d/b/a West Central Wireless, Home Telephone Company, Industry Telephone Company, Mid-Tex Cellular, Ltd., Northwest Missouri Cellular L.P., RT Communications, Smithville Telephone Company, and Volcano Telephone Company.

² *Comment Sought on a Petition by TDS Telecommunications Corp., FairPoint Communications, Inc. and Burke's Garden Telephone Company for Revocation of Sprint/Nextel's ETC Designation in Virginia, or, Alternatively, Motion to Show Cause*, CC Docket No. 96-45, Public Notice, DA 07-3068 (July 9, 2007).

coverage in rural and unserved areas as it committed to do when it was granted ETC status in 2004, and therefore, have asked the Commission to revoke Sprint/Nextel's ETC designation in Virginia. Alternatively, the Rural Petitioners have requested that the FCC issue a Show Cause Order requiring that Sprint/Nextel demonstrate the extent to which it has built out its network in rural areas.³ Based on the facts presented by the Rural Petitioners, the Rural Carriers support the Rural Petitioners' Revocation Petition and agree that the FCC should revoke Sprint/Nextel's ETC designation in Virginia.

I. Introduction

The Rural Carriers are all either small, Tier III wireless carriers or rural telephone companies, all of whom specialize in serving remote, rural regions. Rural, Tier III wireless carriers are able to compete with nationwide carriers such as Sprint/Nextel by offering better network coverage in rural areas that remain largely underserved by nationwide carriers in spite of their promises to build-out in rural areas. In certain instances, some of these small, wireless carriers sought ETC status themselves after seeing their larger competitors successfully petition for ETC status and receive high-cost support. Many rural telephone companies have opposed the ETC applications of nationwide wireless carriers for the very reasons that are highlighted by the Rural Petitioners in their pleading.

Prior to the Telecommunications Act of 1996 ("1996 Act"), the FCC established the Universal Service Fund ("USF" or "Fund") to promote the availability of reasonably

³ *In the Matter of Federal-State Joint Board on Universal Service, Petition for Revocation of Sprint/Nextel's Designation as an Eligible Telecommunications Carrier in the State of Virginia, Docket No. 96-45, Rural ILECs Petition for Revocation of Sprint/Nextel's ETC Designation in Virginia or, Alternatively, Motion to Show Cause, TDS Telecommunications Corp. (June 4, 2007)*("Revocation Petition").

comparable service at reasonably comparable rates in rural areas because AT&T, and later, large incumbent local exchange carriers (“ILECs”), would not serve high-cost, low-density areas. The success of the independent and cooperative rural telephone company industry today is the direct result of early AT&T’s refusal to provide landline telecommunications services in numerous rural communities throughout the United States. In the 1996 Act, Congress affirmed the FCC’s historical universal service structure and codified the FCC’s universal service principles to ensure that rural consumers had access to the same telecommunications services as were available in urban areas. The Commission’s technologically agnostic approach to high-cost support allowed wireless carriers to receive support.

Recent growth of the Fund has been a major concern and has raised questions about the sustainability of the FCC’s USF program. The FCC has stated that the largest and most rapid growth in the USF is the result of support for competitive ETCs (“CETCs”),⁴ including carriers like Sprint/Nextel. The Rural Petitioners’ Revocation Petition proves the point that large, wireless carriers generally have no intent or interest in building out rural areas, much like the old AT&T. However, small rural carriers that provide service in high-cost areas, whether they are an incumbent or a CETC, have demonstrated their commitment to build-out in such areas. As the Rural Petitioners’ request makes clear, Sprint/Nextel has demonstrated no intention of bringing high quality, affordable wireless service to rural Virginia and its receipt of high-cost support

⁴ *In re High-Cost Universal Service Support Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 07-88 at 10 (May 14, 2007).

benefits only Sprint/Nextel shareholders. Accordingly, the FCC should revoke Sprint/Nextel's ETC designation in Virginia.

II. The FCC Should Revoke Sprint/Nextel's ETC Designation

Sprint/Nextel has clearly not met its stated ETC build-out requirements and should have its ETC designation in Virginia revoked. At the very least, Sprint/Nextel should be required to demonstrate where it has spent the high-cost support it has received in Virginia and the extent to which it has, or has not, met its promised build-out requirements. Since the FCC is currently seeking comment on ways it can curb the growth of the fund, the case of Sprint/Nextel in Virginia is a good place to start in any examination of "how" USF monies are spent. The FCC should seriously consider reforming its USF mechanisms by revoking ETC status to carriers, like Sprint/Nextel, that are receiving USF, but are not providing service to high-cost, low-density areas.

The FCC is currently considering the implementation of reverse auctions in order to determine which carriers receive universal service support.⁵ The FCC is also considering an immediate cap that would freeze all universal service support for CETCs at 2006 levels.⁶ The FCC has been driven to consider these possible solutions based on the growth of the USF as a result of support for CETCs. However, *all* CETCs are not necessarily the reason for the Fund's recent growth. The problem lies with larger carriers padding their bottom line with high-cost support when there is no way of determining the

⁵ *Federal – State Joint Board on Universal Service Seeks Comment on the Merits of Using Auction to Determine High-Cost Universal Service Support*, WC Docket No. 05-337, CC Docket No. 96-45, Public Notice, FCC 06J-1 (August 11, 2006).

⁶ *High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Public Notice, FCC 07-88 (May 14, 2007).

extent to which they use the support to provide universal service in rural areas. Large, publicly-traded carriers must, by their very nature, seek the highest return on their investments. This leads them to concentrate on building out highways and low-cost areas, rather than low-density, low-cost areas. As the Rural Petitioners demonstrate, Sprint/Nextel is following this profit pattern in Virginia, eschewing genuinely rural areas.

According to the Rural Petitioners, Sprint/Nextel proposed to construct sixteen new sites in its ETC Petition. Of the sixteen new sites, Sprint/Nextel proposed to construct fourteen sites in two non-rural study areas and only two new sites in rural study areas. The few rural study areas in which Sprint/Nextel is providing service include densely-populated portions that intersect with interstate highways. Sprint/Nextel receives a substantial portion of its USF from providing service to these rural study areas that include these densely traveled highways. Maps of Sprint/Nextel's service area and the Universal Service Administrative Company's ("USAC") disbursement data reveal that Sprint/Nextel has only sought support for four customers in rural study areas. Considering the vast amounts of universal service support flowing to Sprint/Nextel in Virginia, one wonders if this support is necessary to provide service to only four rural customers.

Sprint/Nextel's lack of commitment is in stark contrast to small, rural carriers that have been providing service to high-cost, low-density portions of rural America for decades. These rural carriers, whether they are incumbents or CETCs, have a long history of providing universal service to the remote parts of the country, sometimes even to their financial detriment. These carriers have ties to their local communities and are attempting to provide high-cost wireless and wireline service where it otherwise may not

be provided. Without the FCC's USF program, many of these rural carriers could not afford to build-out in remote areas of the country. While the Rural Carriers support the FCC's attempt to curb the growth of the Fund and encourage the FCC to continue to search for ways to sustain the USF program, the FCC should also focus on providing high-cost support to carriers actually serving high-cost areas.

In its *ETC Order*, the FCC imposed on ETCs reporting requirements to ensure that ETCs satisfy their obligation under section 214(e) of the Communications Act of 1934, *as amended*, to provide supported services throughout their designated service areas and use their USF as intended. These reporting requirements were intended to prevent carriers from seeking ETC status for purposes unrelated to providing rural and high-cost consumers with access to affordable telecommunications and information services. In the same Order, the FCC stated that it might institute an inquiry on its own motion to examine any ETC's documentation to ensure that the high-cost support it receives is being used "only for the provision, maintenance, and upgrading of facilities and services" in the areas where it is designated as an ETC.⁷ The FCC also made clear that if, after reviewing an ETC's progress report, it appears that the ETC is not complying with the FCC's ETC standards or the ETC's stated build-out schedule, the FCC will suspend support or revoke the carrier's ETC designation.⁸ Sprint/Nextel's lackluster rural presence in Virginia could be the poster child for ETC revocation. By examining Sprint/Nextel's actions (or lack thereof) in Virginia, the FCC can send a message to other carriers receiving high-cost support while barely providing high-cost service that these

⁷ *ETC Order* ¶ 70, footnote 198.

⁸ *In re Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46 ¶¶ 68-72 (March 17, 2005) ("*ETC Order*").

federal monies could be better targeted elsewhere. According to USAC's disbursement data, Sprint/Nextel received approximately \$6,053,175 in USF support for Virginia in 2006. In 2007, Sprint/Nextel has already received almost \$4 million for Virginia in USF. Based on Sprint/Nextel's shunning of high-cost areas in Virginia, the high-cost support that flows to Sprint/Nextel may only be padding Sprint/Nextel's bottom line, profiting shareholders rather than rural customers. Universal service support ought to be targeted to those carriers, like the Rural Carriers, that have demonstrated their commitment to improving service in rural areas. The Rural Carriers urge the FCC to follow its stated procedures and revoke Sprint/Nextel's ETC designation in Virginia.

III. Conclusion

Sprint/Nextel's performance in Virginia deserves the scrutiny garnered by this proceeding and calls into question the Commission's policy of awarding high-cost support to non-rural carriers. For the reasons discussed herein, the Rural Carriers respectfully urge the Commission to revoke Sprint/Nextel's ETC status.

Respectfully Submitted,

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August 8, 2007

Certificate of Service

I, Linda L. Braboy, with the firm of Bennet & Bennet, PLLC, hereby certify that I have on this 8th day of August 2007 caused a copy of the foregoing Rural Carriers Comments on Petition for Revocation of Sprint/Nextel's ETC Designation in Virginia to be delivered by first-class mail to the following:

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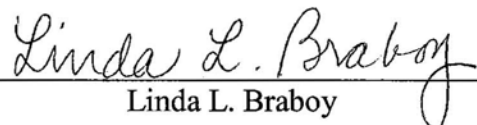
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